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C O N F I D E N T I A L SECTION 01 OF 02 MASERU 000242

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FOR AF/S; RANGOON FOR P. MURPHY

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TAGS: [PREL](#) [PGOV](#) [PINR](#) [KICC](#) [KJUS](#) [MARR](#) [LT](#)

SUBJECT: MEETING WITH FOMIN AND FURTHER DISCUSSION ON ARTICLE 98

REF: (A) MASERU 235 (B) STATE 66837 AND PREVIOUS

CLASSIFIED BY: JUNE CARTER PERRY, AMBASSADOR, EXEC, STATE.

REASON: 1.4 (b), (d)

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#### Summary

1. (C) Ambassador met with Foreign Minister Moleleki May 16 upon the Minister's return to reiterate that we need a firm deadline on Lesotho's Article 98 position. During the FOMIN's absence, post had checked with the Acting Attorney General (A/AG) following telephone communications with Department lawyers and determined that the A/AG had not received a response from MFA's own legal division concerning the legal definition, if any, of the term "sent persons". The Foreign Minister was astounded to learn this information; he claimed he had not heard from his staff and was, in fact, hearing it for the first time from the Ambassador. He proceeded to say there now existed within MFA opposition to him and to the current ruling LDC party. Ambassador also spoke with the Prime Minister May 16 securing his agreement to a fuller discussion of bilateral matters. The GOL has now received ICC analysis of "sent persons" consistent with that of Department lawyers. Timing of further action following government's receipt of this information remains to be seen. End Summary

2. (C) During the Ambassador's meeting, the FOMIN blamed the lack of communication with him on the efforts of the aforementioned group to sabotage him. He also revealed that the Prime Minister's son, who serves in Lesotho's Embassy in Pretoria, has been fomenting dissent at MFA and advising his father (the Prime Minister) to disregard the FOMIN's points of view. He said the First Lady, the Prime Minister's wife, is also against him and has been urging her husband to ignore the FOMIN's views. (Comment: The FOMIN's analysis of the First Lady's unhappiness with him is no surprise since she told Ambassador that she was "disgusted" with the situation surrounding the FOMIN.) All of the above points to the FOMIN's apparent growing lack of credibility among various elements and have fueled the rumors that PM Mosisili is thinking of replacing him, reportedly with former Foreign Minister Tsekoa (currently Minister of Education and Training). The lack of a Principal Secretary in the MFA for about 10 months has been disastrous for

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the functioning of the Ministry and according to the FOMIN, the acting Principal Secretary is a member of the cabal working

against Moleleki's interest.

13. (C) I forced the Minister back to the purpose for our discussion, namely, is Lesotho going or not going to sign an Article 98 Agreement with the U.S. Moleleki promised that he would meet with the Prime Minister that afternoon, May 16, to reiterate 1) that the interpretation of "sent persons" was not an ICC analysis, but only that of some Rome Treaty signatories, and 2) to find out if the Prime Minister wanted further legal information himself. Late May 16 and again on May 17, the Ambassador discussed with the Foreign Minister the outcome of his meeting with the Prime Minister. According to Moleleki, the Prime Minister had subsequently requested a meeting with the Acting Attorney General which reportedly lasted almost 1 hour. The end result of that discussion was a request by the Prime Minister for the Acting Attorney General to speak with a Lesotho staff person at the ICC in The Hague to confirm the interpretation of "sent persons". Late on May 18, the A/AG told the DCM that the ICC secretariat had advised him there is no official pronouncement or interpretation of the definition of "sent persons." The A/AG stated he would formally convey this information to the GOL decision makers shortly.

14. (C) I reiterated May 17 to the FOMIN that we need to conclude this issue and it had to be done very soon; that we had been given a series of previous potential dates; and the GOL's lack of following up had led to a serious credibility problem which would only worsen if the Article 98 matter was not resolved. The FOMIN insisted that he would have it resolved by the end of this week and indicated he had spoken late May 17 with the Foreign Minister of Ghana to learn how they had proceeded and promised to relay the GOL's reaction following receipt of Ghana's agreement. During a late evening (May 18) conversation with the FOMIN, Ambassador relayed the A/AG's ICC information of which the Minister was unaware. He responded that "then, there should be no problem" as the Prime Minister himself had requested The Hague's feedback. The PM and FOMIN are both in the Qacha's Nek area (the PM's district) 6-8 hours

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south of Maseru on May 19. The FOMIN said he expected the A/AG to contact either him or the PM. Given their travel, we do not expect further information/action until next week during which a holiday falls (May 25 - African Heroes Day).

15. (C) The Ambassador took a further opportunity on May 16 to let the Prime Minister know that we need to make progress on this issue and also discuss further major initiatives in Lesotho, including AIDS, MCC and elections. The PM verbally agreed to a full meeting. He was very gracious and appeared willing to move discussions forward. How quickly that develops remains to be seen.

PERRY